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United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCISCO JAVIER BELTRAN,

Defendant.

CASE NO. 1:23-MJ-00134-EPG

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
FINDINGS AND ORDER

DATE: December 21, 2023
TIME: 2:00 p.m.
COURT: Hon. Erica P. Grosjean

This case is set for a preliminary hearing on December 21, 2023. The parties agree and stipulate to schedule the preliminary hearing on January 31, 2024, at 2:00 p.m. before the duty magistrate. The parties desire time to explore the possibility of a pre-indictment resolution. In order to gather the necessary information, review it, and engage in fruitful discussions, the parties need the time requested.

If the case is continued, this Court should designate a new date for the preliminary hearing. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant’s counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for a preliminary hearing on December 21, 2023.
2. By this stipulation, defendant now moves to schedule the preliminary hearing on

January 31, 2023, at 2:00 p.m. and to exclude time between December 21, 2023, and January 31, 2023.

3. The parties agree and stipulate, and request that the Court find the following:

a) The parties are discussing and conducting further investigation into pre-indictment matters, and need additional time to conclude.

b) Counsel for defendant desires additional time to consult with his client, conduct further investigation, and further discuss charges with the government.

c) Counsel for defendant believes that failure to grant the above-requested continuance would deny him the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government does not object to the continuance.

e) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held “no later than 14 days after initial appearance if the defendant is in custody,” unless the defendant consents and there is a “showing of good cause”. Here, the defendant consents and there is good cause as set forth herein.

f) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in an indictment or trial within the original dates prescribed by the Speedy Trial Act.

g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which an indictment must be filed and within which a trial must commence, the time period of December 21, 2023 to January 31, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at defendant’s request on the basis of the Court’s finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy indictment/trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which an indictment must be filed and a trial must commence.

IT IS SO STIPULATED.

1 Dated: December 19, 2023

PHILLIP A. TALBERT
United States Attorney

3 /s/ ARIN HEINZ
4 ARIN HEINZ
Assistant United States Attorney

5 Dated: December 19, 2023

6 /s/ NICHOLAS REYES
7 NICHOLAS REYES
Counsel for Defendant
8 FRANCISCO JAVIER
BELTRAN

9 **FINDINGS AND ORDER**

10 The COURT HEREBY ORDERS:

11 1) This Court finds pursuant to F.R.Cr.P. 5.1(c) and (d) that there is good cause to schedule the
12 preliminary hearing in this matter for January 31, 2024, at 2:00 p.m. before the Duty Magistrate Judge.

13 2) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq.,
14 within which an indictment must be filed and within which a trial must commence, the time period of
15 December 21, 2023 to January 31, 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. §
16 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at defendant's request
17 on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best
18 interest of the public and the defendant in a speedy indictment/trial.

19
20 IT IS SO ORDERED.

21 Dated: **December 20, 2023**

22 /s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE